

REMARKS

Claims 1-5, 7-18 are now pending in the application, of which Claims 11-18 have been withdrawn from consideration. Claims 1-5 and 7-10 stand rejected; Claim 4 is herein cancelled; and Claims 1 and 2 have been amended. Support for the amendments for Claims 1 and 2 can be found at least in Figures 4 and 6 of the application as originally filed and, as such, no new matter has been presented. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

ELECTION/RESTRICTIONS

The Examiner states that Claims 11-18 were not previously considered because they were of improper multiple dependent form and that had they been considered, they would have been restricted. Since Applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, Claims 11-18 were withdrawn from consideration by the Examiner as being directed to a non-elected invention.

DRAWINGS

Applicant gratefully acknowledges the acceptance of the drawings filed on August 28, 2006.

INFORMATION DISCLOSURE STATEMENT

The Examiner points out that the listing of references in the Search Report is not considered to be an Information Disclosure Statement complying with 37 CFR 1.98 because 37 CFR 1.98(a)(2) requires a legible copy of each foreign patent and that some references cited in the Search Report have not been considered. Applicant apologizes for the oversight, attaches hereto a copy of each missing foreign patent, and respectfully requests the Examiner to consider these references.

REJECTION UNDER 35 U.S.C. §103

Claims 1-5 and 7-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Smith (GB 2 332 722) in view of Palm (U.S. Pat. No. 5,183,357). This rejection is respectfully traversed.

The Examiner's attention is directed to independent Claim 1. Claim 1 has been amended to clarify that the expandable portion defines three slots which terminate remote from said first end, said slots defining a triangular aperture having substantially flat sides. Applicant notes that in each of the cited references, the interior surface of the elongate tubular body defines a concave surface which essentially encapsulates a portion of the shank. This is opposed to Applicant's peel type rivet which has an elongate tubular body where the substantially flat sides tangentially engage the mandrel as is now claimed.

In the rejections of Claims 1-5, 7-10, under 35 U.S.C. § 103(a), the Office takes the position that the head of the Smith reference has a shoulder portion (32)

substantially perpendicular to said mandrel stem. Applicant respectfully traverses this characterization.

The Examiner's attention is directed to page 9, line 27 through page 10, line 3 of the application. This portion of the instant application specifically distinguishes the shoulder portion (128) of the claimed rivet from the mandrel (4) as shown in Figure 1. Applicant notes that the shoulder portion (28) of the Smith reference is shown having a generally concave conical transition portion. As shown in Figure 3 of the instant application, the head (126) of the mandrel has a shoulder portion (32) which is substantially perpendicular to the mandrel stem. Applicant respectfully submits that the references cited do not teach these limitations or the combination of limitations as set forth in the claims which depend upon Claim 1. As such, Applicant respectfully submits that rejections under 35 U.S.C. § 103(a) have been overcome or rendered moot in view of the amendments herein.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: 
Christopher A. Eusebi, Reg. No. 44,672

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

CAE/lf-s/smb